

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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OM FINANCIAL INSURANCE COMPANY,

Plaintiff,

v.

**STIPULATION OF  
SETTLEMENT AND  
DISMISSAL**

**Civil Action No.: 5 : 10-CV-0529  
(DNH/GHL)**

JOHN CARAPELLA, MICHAEL CARAPELLA,  
RICHARD CARAPELLA, KATHI CARAPELLA,  
OUR LADY OF POMPEI CHURCH/ST. PETER,  
ST. JUDE CHILDREN'S RESEARCH HOSPITAL,

Defendants,

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WHEREAS Plaintiff O.M. Financial Life Insurance Company commenced this interpleader action to determine the rights of the defendants with respect to distribution of the death benefit of an annuity contract under Certificate No. L9208413 purchased by the decedent, Judith A. Carapella, and discharging the plaintiff from all liability to defendants arising out of payment of those proceeds,

AND the defendants John Carapella, Richard Carapella, and Kathi Carapella having appeared and answered through counsel, Sugarman Law Firm, LLP, and defendant Michael Carapella having personally appeared, pro se, and defendants Our Lady of Pompei Church/St. Peter and St. Jude Children's Research Hospital having appeared through counsel, Coulter, Ventre & McCarthy, LLP,

AND plaintiff having paid the proceeds of said Certificate into an interest bearing account in the Court Registry Investment System, and plaintiff having been dismissed from the action with prejudice and discharged from any further liability with respect to the Certificate by Consent Order filed October 25, 2010,

AND the defendants having agreed among themselves to resolve the matter without further litigation, and without any admission or acknowledgment of liability on their parts with respect to the allegations contained in their respective answers with cross-claims and counterclaims,


AND the parties having authorized their respective counsel to enter into this stipulation of settlement on their behalf and bind them thereto, it is hereby

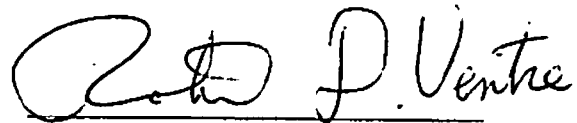
STIPULATED and AGREED that the proceeds due and owing under the terms of the Certificate and payable by reason of the death of the decedent shall be distributed to defendants in accordance with the decedent's Beneficiary Designation dated January 19, 2010, i.e., 5% to John Carapella, 5% to Michael Carapella, 50% to Richard Carapella, 25% to Our Lady of Pompei Church/St. Peter, and 15% to St. Jude's Children's Research Hospital, with each check being paid to the order of the respective beneficiaries and their above-referenced counsel, and it is further

STIPULATED and AGREED that the defendants withdraw the cross-claims and counterclaims as among themselves, and that the action be marked settled and discontinued, with prejudice, without costs or attorneys' fees to any party.

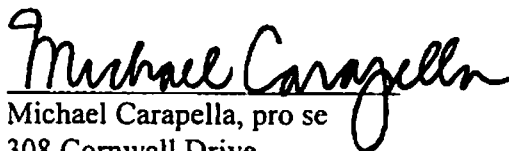
This stipulation may be filed without further notice with the Clerk of the Court.

Dated: November 22, 2010

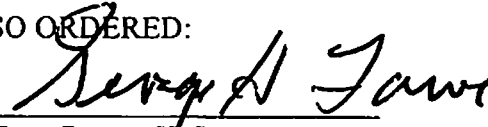
  
Charlene E. McGraw, Esq.  
Timothy J. Perry, Esq.  
Bar Roll No. 102354  
SUGARMAN LAW FIRM, LLP  
Attorneys for the Defendants John Carapella,  
Richard Carapella and Kathi Carapella  
Office and Post Office Address  
211 West Jefferson Street  
Syracuse, New York 13202  
Telephone: (315) 474-2943  
Facsimile: (315) 474-0235



Robert D. Ventre, Esq.  
Bar Roll No. 510865  
COULTER VENTRE & MCCARTHY, LLP  
Attorneys for Defendant Our Lady of Pompei/  
St. Peter Church and St. Jude Children's  
Research Hospital  
Office and Post Office Address  
636 Old Liverpool Road  
Liverpool, New York 13088  
Telephone: (315) 475-8461  
Facsimile: (315) 475-4314

  
Michael Carapella, pro se  
308 Cornwall Drive  
Dewitt, New York 13214  
Telephone: (315) 345-7088

SO ORDERED:

  
Hon. George H. Lowe,  
U.S. Magistrate Judge

Dated: ~~November~~ <sup>December</sup> 2, 2010